

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 23 April 2025

DOCKET NUMBER: AR20240010133

APPLICANT REQUESTS: upgrade his under honorable conditions (general) discharge to honorable.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:
DD Form 149 (Application for Correction of Military Record)

FACTS:

1. The applicant did not file within the 3-year time frame provided in Title 10, U.S. Code, section 1552(b); however, the Army Board for Correction of Military Records (ABCMR) conducted a substantive review of this case and determined it is in the interest of justice to excuse the applicant's failure to timely file.
2. The applicant states he failed a drug test for marijuana while serving in Germany. It happened right before his tour ended so he got punished by his unit in Germany and then he got kicked out of the Army by his unit at Fort Sill, OK. He has lived with this on his record for many years and he feels like he lived his life honorably without any other incidents since this happened.
3. The applicant's service record shows:

- he enlisted in the Regular Army on 9 April 1987
- he had a positive urinalysis result from a command urinalysis conducted on 10 August 1989, while stationed in Germany
- the Memorandum for Record, Subject: Response to Inquiry, 8 May 1990 shows his unit received a copy of the positive urinalysis results and flagged him, pending a field grade Article 15 on 20 October 1989
- the charges were read to him on 24 October 1989
- on 30 October 1989, after consulting with counsel, he requested a trial by courts-martial; however, he later accepted nonjudicial punishment (NJP) on 10 August 1990 for wrongful use of marijuana on or about 10 August 1990
- he received counseling on 22 August 1990 regarding the use of a controlled substance. He was subsequently processed under Army Regulation 635-200 (Personnel Separations-Enlisted Personnel), Chapter 14, for misconduct

- his commander notified him he was initiating action to separation on 27 August 1990 for misconduct and recommended an under honorable conditions (general) discharge
- he consulted with counsel, and elected to submit statements in his own behalf however they were not available for review; he understood he may expect to encounter substantial prejudice in civilian life a under honorable conditions (general) discharge was issued to him
- his commander recommended approval and that the applicant be separated; he clearly had no potential for useful service under conditions of full mobilization
- his chain of command recommended under honorable conditions (general) discharge, and the separation authority recommended approval and directed an under honorable conditions (general) discharge
- He was discharged on 2 October 1990, under the provisions of AR 635-200, Paragraph 14-12C, for misconduct (drug abuse). His characterization of service was under honorable conditions (general). He completed 3 years, 5 months, and 24 days net active service. His Separation Code is JKK with reentry code 3. His DD Form 214 also shows he was awarded or authorized:
 - Army Service Ribbon
 - Overseas Service Ribbon,
 - Army Good Conduct Medal,
 - Expert Marksmanship Qualification Badge Rifle M-16
 - Expert Marksmanship Qualification Badge Hand Grenade
 - Army Achievement Medal
 - German Armed Forces Marksman Badge in Gold

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition and available military records, the Board determined there is insufficient evidence of in-service mitigating factors to overcome the misconduct of testing positive for marijuana days before your permanent change of station (PCS) from Germany.
2. The Board noted, the applicant provided no post service achievements or character letters of support for the Board to consider for clemency. The Board recognized your length of service under liberal consideration. The Board determined the applicant was

discharged for misconduct and was provided an under honorable conditions (General) characterization of service. The Board agreed that the applicant's discharge characterization is warranted as he did not meet the standards of acceptable conduct and performance of duty for Army personnel to receive an Honorable discharge. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

GRANT FULL RELIEF

GRANT PARTIAL RELIEF

GRANT FORMAL HEARING

DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Title 10, U.S. Code, section 1552(b), provides that applications for correction of military records must be filed within 3 years after discovery of the alleged error or injustice. This provision of law also allows the ABCMR to excuse an applicant's failure to timely file within the 3-year statute of limitations if the ABCMR determines it would be in the interest of justice to do so.
2. Army Regulation 635 (Personnel separations-Separation Documents) Separation documents prepared for Soldiers upon retirement, discharge, or release from active military service or control of the Army. It established the standardized policy for the preparation of the DD Form 214. The DD Form 214 is a synopsis of the Soldier's most recent period of continuous active service. The information entered thereon reflects the conditions as they existed at the time of separation. It states for:
 - a. Block 26 (Separation Code) Obtain correct entry from AR 635-5-1 (Separation Program Designator (SPD) Codes), which provides the corresponding separation program designator code for the regulatory authority and reason for separation.
 - b. Block 27 (Reentry Code) AR 601-210 (Active and Reserve Components Enlistment Program) determines RA and USAR reentry eligibility and provides regulatory guidance on the RE codes.
3. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities and reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214 (Certificate of Release or Discharge from Active Duty). The separation code JKK (is to be used for RA Soldiers discharged for misconduct).
4. The SPD/RE Code Cross Reference Table provides instructions for determining the RE Code for Active Army Soldiers and Reserve Component Soldiers. This cross-reference table shows the SPD code and a corresponding RE Code. The table in effect at the time of his discharge shows the separation code JKK has a corresponding RE Code of "3".
5. Army Regulation 601-210 (Active and Reserve Components Enlistment Program) covers eligibility criteria, policies, and procedures for enlistment and processing into the Regular Army, U.S. Army Reserve, and Army National Guard. Table 3-1 provides a list of RE codes:
 - RE-1 Applies to persons immediately eligible for reenlistment at time of separation
 - RE-2 Applies to persons not eligible for immediate reenlistment

- RE-3 Applies to persons who may be eligible with waiver-check reason for separation
- RE-4 Applies to persons who are definitely not eligible for reenlistment

6. Army Regulation 635-200 (Personnel Separations-Enlisted Personnel) sets forth the basic authority for the separation of enlisted personnel. The version in effect at the time provided that:

- a. An honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.
- b. Chapter 14 established policy and prescribed procedures for separating members for misconduct. Specific categories included minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, or absences without leave. Action would be taken to separate a member for misconduct when it was clearly established that rehabilitation was impracticable or was unlikely to succeed. A discharge under other than honorable conditions was normally considered appropriate. However, the separation authority could direct a general discharge if merited by the Soldier's overall record.

//NOTHING FOLLOWS//